IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 5TH JULY 2007 / 14TH ASHADHA 1929

Crl.MC.No. 2161 of 2007()

CC.622/2004 of JUDL.MAGISTRATE OF FIRST CLASS COURT, THIRUVALLA

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PETITIONER: ACCUSED

RAJAN.K.OOMMEN @ KALLOORKARA,
KANICHUKATTU VEETTIL, KALLOORKARA VILLAGE,
MALLAPPALLY TALUK, PATHANAMTHITTA .

BY ADV. SRI.M.S.RADHAKRISHNAN NAIR

RESPONDENTS: COMPLAINANT

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1. STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. SUB INSPECTOR OF POLICE,
KEEZHUVAIPOOR POLICE STATION, PATHANAMTHITTA.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 05/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.2161 of 2007

Dated this the 5th day of July, 2007

O R D E R

The petitioner faces indictment in prosecutions, inter alia, under Section 379 r/w 34 I.P.C. The petitioner faces such allegations altogether in 11 cases, out of which he is on bail in 4 cases. The petitioner could not appear and consequently, he finds non bailable warrants of arrest issued by the learned Magistrate chasing him in the instant case as also in other similar cases.

2. According to the petitioner, he is absolutely innocent. His absence on the previous dates of posting was not wilful and was due to reasons beyond his control. The petitioner is willing to appear and co-operate with the expeditious progress and disposal of all the cases. But the petitioner apprehends that when he appears and applies for bail, such applications may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. In these circumstances, the petitioner prays that directions may be issued under Section 482 Cr.P.C.

3. I am of the opinion that it is not necessary for this Court to invoke the powers under Section 482 Cr.P.C. It is for the petitioner to appear before the learned Magistrate and explain why he could not appear before the learned Magistrate earlier in all the cases pending

against him. The learned Magistrate is obliged to consider such applications for regular bail on merits, in accordance with law and expeditiously. No special or specific directions appear to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This Crl.M.C is, in these circumstances, dismissed. But I make it clear that it shall be open to the petitioner to appear before the learned Magistrate in all cases, where warrants of arrest issued are pending against him and apply for bail. If such applications are filed after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

5. Hand over a copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

rtr/-